Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	**)**	
	)	
Review of the Emergency Alert System	**)**	EB Docket No. 04-296

Comments of XM Radio Inc.

XM Radio Inc. ("XM"), one of the two providers of Satellite Digital Audio Radio Service ("SDARS" or "satellite radio") in United States, hereby files these Comments in the above-referenced proceeding regarding the Emergency Alert System (the "EAS").[1] XM will continue its work with the Commission and other federal, state, and local agencies to create an efficient means for distribution of state and local emergency alerts to national media outlets, such as satellite radio providers. Providing national media outlets such as satellite radio with instantaneous access to these state and local emergency alerts will greatly enhance their ability to deliver these alerts to their subscribers.

Background

XM. XM is the leading provider of satellite radio service in the world today. Since its licensing, XM has spent nearly three billions dollars constructing and operating multiple satellites, deploying in-band terrestrial repeaters in some markets to fill gaps in satellite coverage, and developing and designing consumer receivers that enable excellent reception.[2] As

[1] *See Review of the Emergency Alert System, First Report and Order and Further Notice of Proposed Rulemaking,* EB Docket No. 04-296, FCC 05-191 (rel. November 10, 2005) ("*Order* & *FNPRM*").

[2] Pursuant to a grant of Special Temporary Authority issued in 2001, terrestrial repeaters are restricted to the simultaneous retransmission of the programming delivered via XM's satellites. *See XM Radio, Inc., Application for Special Temporary Authority to Operate Satellite Digital Audio Radio Service Complementary Terrestrial Repeaters, Order and Authorization,* DA 01-2172 (rel. September 17, 2001), at ¶ 18(c).

the Commission has repeatedly recognized, satellite radio provides multiple channels of audio programming distributed to a national audience, thereby increasing the variety of audio programming available to the listening public and serving listeners in areas of the country that have been underserved.[3] XM currently offers 160 channels of high-quality, continuous, multi-channel audio service throughout the United States--from the downtown urban cores to the most rural and remote parts of the United States. These 160 channels are up-linked from XM's headquarters in Washington, DC to its satellites and then retransmitted to subscribers nationwide using XM's satellites and terrestrial repeaters. Included among XM's channels are twenty-one Instant Traffic, Weather & Alert channels, which provide subscribers with in-depth, up-to-the-moment updates on traffic and weather conditions for twenty-one metropolitan regions as well as other alert information such as Amber Alerts. Unlike any other communications medium, satellite radio delivers the same programming, including these Instant Traffic, Weather & Alert channels, to every subscriber receiver throughout the nation.

EAS Proceeding. In August 2004, the Commission issued a Notice of Proposed Rulemaking ("*NPRM*") requesting comment on whether satellite radio operators, among others, should be required to be part of the EAS.[4] As the Commission has explained, distributing emergency alerts to the American public involves two fundamental steps. The first step is for the originating source of the emergency message, such as the Federal Emergency Management Agency ("FEMA") or state and local emergency operations managers, to distribute the emergency message to media outlets, such as broadcast stations and cable operators. *NPRM* ¶

[3] *See, e.g.*, *Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, Report and Order, Memorandum Opinion and Order*, 12 FCC Rcd 5754, ¶ 1 (1997) ("*SDARS Order*").

[4] *See Review of the Emergency Alert System, Notice of Proposed Rulemaking,* EB Docket No. 04-296, FCC 04-189 (rel. August 12, 2004) ("*NPRM*"), ¶ 29.

17. At the federal, state, and local levels, this first step in the distribution process is hierarchical and terrestrial-based. *Id*. Certain radio and television stations in a market (the "primary" stations) have been designated to receive emergency alerts directly from the originating EAS source. *Id*. The other radio and television broadcast stations and cable systems in the market monitor these primary stations through ENDEC units to receive the alerts. For local media outlets, such as broadcasts stations and cable systems, monitoring for state and local emergency alerts is a relatively simple process because they have a presence in the local area where the alert is originated. Once the emergency message is received by the media outlet, the second step entails the distribution of the emergency message by the media outlet to its listeners or viewers. *NPRM* ¶ 19. For state and local emergency alerts delivered by local media outlets, this is again a relatively simple process. Because their listeners or viewers are located in the general vicinity of the emergency, the alerts are germane to all listeners or viewers, thus making transmission of the alert on all channels appropriate.

XM submitted Comments in this proceeding in which it committed to voluntarily become part of the EAS by transmitting national emergency alerts on all of its channels and state and local emergency alerts on the appropriate Instant Traffic, Weather & Alert channels where XM receives alerts from originating EAS sources.[5] These alerts can be relayed back to XM's operations center and then transmitted throughout XM's nationwide coverage area on the appropriate Instant Traffic, Weather & Alert channel. *XM Comments* at 8-11. XM also explained that it could explore providing state and local emergency alerts for additional regions as well "to the extent a single entity were established to collect and transmit all state and local EAS alerts, or if state and local EAS sources were to transmit alerts directly to XM." *Id*. at 9-10.

[5] *See* Comments of XM Radio Inc., EB Docket No. 04-296 (October 29, 2004), at 3-6 ("*XM Comments*"), at 8-11.

On November 10, 2005, the Commission released its decision in this proceeding in which it required satellite radio operators to be able to transmit national-level EAS alerts on all channels by December 31, 2006. *See Order* ¶¶ 43-48.[6] The Commission also encouraged, but did not require, satellite radio operators to transmit state and local emergency alerts. *Id.* ¶¶ 43, 45. In declining to mandate that satellite radio operators transmit state and local emergency alerts, the Commission recognized that the nationwide coverage area of satellite radio operators creates major impediments in each of the two fundamental steps for transmitting state and local emergency alerts. First, unlike local broadcast stations and cable systems, a national media outlet originates programming from a central location and does not have an ENDEC unit located in every area throughout its nationwide coverage area where a state or local alert might be originated. *Id.* ¶ 45. Second, satellite radio operators transmit nationwide so state and local emergency alerts would reach all listeners, regardless of whether the listener is located anywhere near the area affected by an emergency situation. *Id.* ¶ 47. The Commission noted that transmission of state and local emergency alerts on a nationwide basis would inconvenience listeners and desensitize them to emergency messages that may have an impact on their local area. *Id.* Despite these recognized difficulties in transmitting state and local emergency alerts, the Commission in the *FNPRM* seeks comment on how providers of national programming, such as satellite radio, might deliver state and local emergency alerts. *FNPRM* ¶ 68.

[6] XM has filed a Petition for Partial Reconsideration and Clarification of the *Order* requesting narrowly-tailored relief limited to the testing of national EAS alerts and the transmission of EAS codes and attention signals. *See* XM Radio Inc., Petition for Partial Reconsideration and Clarification, EB Docket No. 04-296 (December 27, 2005).

Discussion

The most practical way for satellite radio operators to distribute state and local emergency alerts is if a system is developed to first distribute these alerts to a central point that is accessible by XM and other national media outlets. Without this clearinghouse, it is impractical for XM to participate in the delivery of state and local emergency alerts throughout its nationwide coverage area. XM will continue its work with federal, state, and local agencies to create a better means for distribution of state and local emergency alerts to national media outlets.

As the Commission recognizes in the *Order*, an effective system for transmitting state and local emergency alerts involves two key steps: (i) transmission of the alert by the originating source to media outlets and (ii) transmission of the alert by media outlets to their subscribers and listeners. The ability of a national media outlet such as satellite radio to deliver state and local emergency alerts to its nationwide subscriber base requires significant advancements in the first step in the state and local emergency alert distribution process. As the Commission notes, the current EAS distribution structure requires a national media outlet to have a local presence in every applicable local area to monitor the primary station that receives the emergency message directly from its originating source. *Order* ¶ 45. As a national communications medium, it would be cost prohibitive for a satellite radio operator to deploy an ENDEC unit in every locality throughout its nationwide service area in order to monitor for state and local emergency alerts. Moreover, even if a satellite radio operator were able to monitor for state and local emergency alerts through an ENDEC unit in every market, it would bear the significant expense of transport of these messages back to the central uplink location for transmission to its satellites and ultimately to subscribers nationwide. As a nationwide service provider, a satellite radio operator

would also face the enormous task of complying with disparate state and local EAS plans for every jurisdiction throughout the nation. Accordingly, for the near term, there is simply no efficient means for disseminating state and local emergency messages to national media outlets for ultimate distribution to subscribers.

Thus, the ability of national media outlets such as satellite radio providers to deliver state and local emergency alerts throughout the nation is first and foremost dependent upon the timely receipt of these state and local emergency alerts from their originating sources. Towards that end, XM encourages the Commission in conjunction with federal, state, and local agencies to improve the EAS by facilitating the distribution of state and local emergency alerts by their originating sources to national media outlets, such as satellite radio operators.[7] A satellite or Internet-based system that uses a common messaging protocol would be the most efficient means for distributing alerts to media outlets. XM is encouraged by the efforts being made to develop an Integrated Public Alert and Warning System (IPAWS) to distribute state and local emergency alerts. XM has played an active role in FEMA's Digital Emergency Alert System (DEAS) National Capital Region Pilot and looks forward to working with this group, the Commission, and other agencies in the future to facilitate the distribution of state and local emergency alerts to national media outlets.

Assuming that a centralized clearinghouse for state and local emergency alert messages is established, the next step for satellite radio operators is to deliver these alerts to subscribers. Because satellite radio operators transmit the same programming nationwide to every subscriber receiver, this will require the development of receivers that are capable of receiving alerts only when they are located in areas impacted by an emergency. As the Commission has recognized,

[7] *FNPRM* ¶ 66 (seeking comment on whether the current distribution system is flawed and whether EAS messages should be distributed directly to media outlets).

receipt of all state and local emergency alerts by all receivers nationwide would unnecessarily confuse, desensitize, and inconvenience subscribers. *FNPRM* ¶ 47. XM looks forward to working with the Commission as well as other federal, state, and local agencies on an effective means for enabling receipt of state and local alerts only in areas impacted by an emergency.

Conclusion

In light of the foregoing, XM encourages the Commission in conjunction with other federal, state, and local agencies to improve the EAS by facilitating the distribution of state and local EAS alerts from their originating sources to national media outlets, such as satellite radio providers.

Respectfully submitted,

/s/William J. Bailey
William J. Bailey
Senior Vice President,
Regulatory and Government Affairs
XM RADIO INC.
1500 Eckington Place, N.E.
Washington, D.C. 20002
(202) 380-4000

/s/David S. Konczal
Bruce D. Jacobs
David S. Konczal
PILLSBURY WINTHROP SHAW PITTMAN LLP
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8000

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